

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
IN TACOMA

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UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	No. CR16-5073RBL
	)	
vs.	)	
	)	
DANIEL FRANEY,	)	
	)	
Defendant.	)	

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MOTION FOR CONTINUANCE

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BEFORE THE HONORABLE RONALD B. LEIGHTON  
UNITED STATES DISTRICT COURT JUDGE

April 1, 2016

**APPEARANCES:**

**Todd Greenberg**  
**Assistant United States Attorney**  
**Representing the Plaintiff**

**Mohammad Hamoudi**  
**Assistant Federal Public Defender**  
**Representing the Defendant**

11:03:51AM 1 THE CLERK: This is in the matter of the United  
11:03:54AM 2 States of America versus Daniel Seth Franey,  
11:03:57AM 3 Cause No. CR16-5073RBL. Counsel, please make your  
11:04:02AM 4 appearances.

11:04:02AM 5 MR. GREENBERG: Your Honor, Todd Greenberg for the  
11:04:04AM 6 United States.

11:04:05AM 7 THE COURT: Good morning, Mr. Greenberg.

11:04:05AM 8 MR. HAMOUDI: Good morning, your Honor. Mohammad  
11:04:09AM 9 Hamoudi from the Federal Defender's Office. I am here on  
11:04:10AM 10 behalf of Mr. Franey, seated to my left.

11:04:12AM 11 THE COURT: Mr. Hamoudi, good morning.  
11:04:16AM 12 Mr. Franey, good morning.

13 THE DEFENDANT: How you doing, sir?

11:04:18AM 14 THE COURT: Good. This matter is before the court  
11:04:21AM 15 on a motion for continuance. The proposal submits that  
11:04:33AM 16 there is time needed to gather and assemble and analyze  
11:04:39AM 17 the evidence, and so forth. I have been informed that  
11:04:47AM 18 Mr. Franey will not sign a waiver of speedy trial. If  
11:04:53AM 19 Mr. Hamoudi would make the case for the continuance, we  
11:04:59AM 20 will go from there.

11:05:00AM 21 MR. HAMOUDI: May I, your Honor?

11:05:03AM 22 THE COURT: Absolutely.

11:05:06AM 23 MR. HAMOUDI: Your Honor, this case may seem  
11:05:08AM 24 somewhat straightforward by reviewing the indictment, but  
11:05:12AM 25 when you look deeper into it, it is much more complicated

11:05:15AM 1 and involves a lot of factual issues that need to be  
11:05:18AM 2 reviewed and investigated.

11:05:20AM 3 Mr. Greenberg has been helpful in streamlining us  
11:05:25AM 4 receiving discovery in this case. There is thousands of  
11:05:28AM 5 documents. There is over 2,000 pages of written material.  
11:05:31AM 6 There is hundreds of hours of recordings. For Mr. Franey  
11:05:41AM 7 to receive an effective representation in this case we are  
11:05:44AM 8 going to need to listen to everything, analyze it, discuss  
11:05:46AM 9 it with him, and make decisions.

11:05:49AM 10 THE COURT: Have you discussed this matter fully  
11:05:51AM 11 with your client?

11:05:52AM 12 MR. HAMOUDI: Yes, we have, your Honor.

11:05:54AM 13 THE COURT: Mr. Franey, do you believe you  
11:05:57AM 14 understand the need for more time to analyze the evidence?

11:06:04AM 15 THE DEFENDANT: Your Honor, if I may say just a  
11:06:07AM 16 couple of things? I understand this process. I  
11:06:12AM 17 understand there is a lot of information to go over for  
11:06:18AM 18 these guys. In my mind, it is a little more  
11:06:20AM 19 straightforward.

11:06:24AM 20 I have been harassed by the FBI for five years. They  
11:06:27AM 21 have come at me with informants and agents for five years,  
11:06:30AM 22 asking for guns, asking me to take guns. I have refused.  
11:06:34AM 23 This last time I did not use my better judgment. I toyed  
11:06:40AM 24 with them because I was broke. I invited them to Islam,  
11:06:44AM 25 because my dad told me maybe I should start inviting the

11:06:48AM 1 feds to Islam. They got me in some hot water, I  
11:06:52AM 2 understand. But I am not a terrorist. I would never hurt  
11:06:55AM 3 a man, woman, or child, if I was in a war on one side or  
11:07:01AM 4 the other.

11:07:03AM 5 I would really like to see my family. They are being  
11:07:07AM 6 denied visits right now. I'm not supposed to be saying  
11:07:12AM 7 any of this. I'm sorry, brother.

11:07:14AM 8 When my family first left in 2011, they came at me  
11:07:18AM 9 with informants and agents. Before I got married again  
11:07:21AM 10 they came at me with agents. After I got married they  
11:07:24AM 11 came at me with agents. And then they came at me last  
11:07:26AM 12 summer with agents.

11:07:28AM 13 The first thing I asked the guy was, are you working  
11:07:31AM 14 with the feds? He said no, I laughed, and then I am here  
11:07:34AM 15 now.

11:07:35AM 16 I didn't understand weapons possessions meant being  
11:07:39AM 17 around them. I thought as long as I didn't take one from  
11:07:41AM 18 them, possess, own, they couldn't charge me with anything.

11:07:44AM 19 MR. HAMOUDI: Your Honor, just so --

11:07:46AM 20 THE DEFENDANT: I'm sorry.

11:07:47AM 21 THE COURT: That's all right.

11:07:49AM 22 MR. HAMOUDI: Let me interject here. I think the  
11:07:53AM 23 strain he is feeling right now is that he is in -- He  
11:07:54AM 24 doesn't have a felony record. He is in custody at the  
11:07:57AM 25 detention center. Currently he is in the special housing

unit, and he hasn't been able to see his wife or kids. As the court is aware, that puts an incredible amount of strain on a family man.

We are trying to find a way to allow him to have contact visits with his wife and kids. His children miss him. Some of this issue with the ability to continue the case has to do with the fact of these pretrial restraints that are pressing on him.

So that's sort of where we are at, your Honor. We need to do our job. We are trying to balance things here.

THE COURT: All right. Do you understand why they need more time? That's the point that I need to address before I rule on this motion.

THE DEFENDANT: I understand that they have a heavy workload and this case alone is going to take a lot of time, and it is probably just going to go months. Once in a while we will come see you again, and I will go back, and eventually we will work something out. I get that. Like he said, it has been two months now.

They admitted to me yesterday, yes, I am in isolation, I don't get to go to rec with anyone, I don't get a neighbor, I don't get a cellie, I don't get to go to GP, because they don't want me telling people how I feel about the government, or my ideas about Islam. I would just ask to be treated like anyone else.

11:09:16AM 1       There are people in there who kill people, rape  
11:09:17AM 2       people, burn people, rob people, and beat people. I just  
11:09:20AM 3       want to go to GP so I can have contact with my wife, which  
11:09:24AM 4       they are still not giving me because -- I mean, she is a  
11:09:27AM 5       middle-class white American girl from Bend, Oregon, that  
11:09:31AM 6       worked as a daycare worker for ten years. I don't know  
11:09:33AM 7       what their concern is.

11:09:35AM 8           THE COURT: I appreciate that, but focus on the  
11:09:37AM 9       question about do you understand they need -- Do you  
11:09:45AM 10      sincerely believe that they need more time?

11:09:48AM 11          THE DEFENDANT: If this were ever to go to trial,  
11:09:50AM 12      I would say they need more time, yeah.

11:09:53AM 13          THE COURT: All right. What amount of time do you  
11:09:57AM 14      need?

11:09:59AM 15          MR. HAMOUDI: In the motion, your Honor, we set it  
11:10:02AM 16      out -- we asked for a trial date at or before  
11:10:08AM 17      December 2016. So right now what we have assessed is that  
11:10:15AM 18      we have to make some travel arrangements. The case  
11:10:20AM 19      involves multiple jurisdictions. We have to travel with  
11:10:23AM 20      an investigator to go to those jurisdictions and maybe  
11:10:25AM 21      contact witnesses. But to make a proper assessment, we  
11:10:28AM 22      really have to review these documents, which is going to  
11:10:31AM 23      take some time, and listen to the audio recordings, which  
11:10:34AM 24      I think are very important.

11:10:35AM 25          THE COURT: Mr. Greenberg, when do you think the

11:10:37AM 1 evidence will be amassed for -- probably rolled out,  
11:10:41AM 2 processed, but to get all the information for Mr. Hamoudi?

11:10:46AM 3 MR. GREENBERG: Yes, your Honor. I just delivered  
11:10:49AM 4 a package to them this morning. They now have the bulk of  
11:10:54AM 5 the discovery. There are some recordings that still are  
11:10:57AM 6 being processed and going through some complicated  
11:11:02AM 7 processes at FBI headquarters that need to be undertaken  
11:11:06AM 8 before they can be produced. Those will be produced in a  
11:11:08AM 9 couple of weeks. They will then have all of the  
11:11:11AM 10 recordings -- the undercover recordings.

11:11:13AM 11 There is some other evidence that is not ready to  
11:11:18AM 12 produce right now and is going through processes. There  
11:11:22AM 13 may be a need for some CIPA proceedings. I am trying to  
11:11:26AM 14 avoid that. We are dealing with that kind of issue, your  
11:11:31AM 15 Honor.

11:11:31AM 16 It is a fairly voluminous discovery production. And I  
11:11:36AM 17 know this court has experience with these sorts of things.  
11:11:39AM 18 They can take some time. I think the motion is well  
11:11:42AM 19 founded. I would think that they need a substantial  
11:11:46AM 20 amount of time to truly digest this material and be  
11:11:50AM 21 prepared for trial.

11:11:51AM 22 THE COURT: Is September 6th enough time, or not?

11:11:56AM 23 MR. HAMOUDI: I think at this time we can probably  
11:11:59AM 24 put it out to September 6th. We can always come back to  
11:12:03AM 25 the court, your Honor, and reassess the date once we are

11:12:09AM 1 through this first round of discovery.

11:12:10AM 2 THE COURT: You know, I've got a real extensive  
11:12:14AM 3 trial schedule. I will continue this trial date until  
11:12:27AM 4 September 6, and we will send out the adjusted motions  
11:12:33AM 5 deadline.

11:12:34AM 6 MR. GREENBERG: Your Honor, I think I am scheduled  
11:12:36AM 7 to be out of town that day.

11:12:38AM 8 THE COURT: You are?

11:12:41AM 9 MR. GREENBERG: Is it possible to look at that  
11:12:42AM 10 following week?

11:12:43AM 11 THE COURT: The 12th?

11:12:45AM 12 MR. GREENBERG: Yes.

11:12:45AM 13 THE COURT: I have a big personal injury case  
11:12:48AM 14 scheduled for the 12th. Obviously this case would take  
11:12:52AM 15 precedence.

11:12:54AM 16 MR. GREENBERG: I do believe this case would  
11:12:56AM 17 take more than a week to try. I do think -- Is the 6th  
11:13:03AM 18 just the day after Labor Day? I am out of town.

11:13:06AM 19 THE COURT: September 12th.

11:13:08AM 20 MR. HAMOUDI: That's fine, your Honor.

11:13:09AM 21 THE COURT: Is that convenient? I will cite the  
11:13:24AM 22 normal language, a failure to grant such a continuance in  
11:13:29AM 23 this proceeding would likely result in a miscarriage of  
11:13:32AM 24 justice. Mr. Franey does understand why this continuance  
11:13:42AM 25 motion has been brought. So I am going to grant the



11:13:51AM 1 motion.

11:13:52AM 2 The trial date will be September 12. A pretrial  
11:14:04AM 3 motions date shall be filed -- The date will be filled in  
11:14:13AM 4 by Ms. Boring. You will have the completed order post  
11:14:22AM 5 haste, by the end of the day. Anything further?

11:14:27AM 6 MR. GREENBERG: Not from the government.

11:14:28AM 7 MR. HAMOUDI: Nothing else, your Honor.

11:14:30AM 8 THE COURT: All right. Court is at recess.

9 (Proceedings adjourned.)  
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